

REMARKS

Claims 1- 27 , as amended, a pending herein.

Claims 1-2, 17, and 22-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Field (U.S. Patent No. 5,428,616) in view of Saunders (U.S. Patent Application Publication No. 2002/0097463).

Applicant has amended independent claims 1 and 17 to recite that the receive trace record entries exclude any payload of the PDUs received and that the transmit trace record entries also exclude any payload of the PDUs. Inclusion of this limitation more clearly and particularly claims the subject matter for which protection is sought. Neither the specification nor the drawings describe any part of a payload of the PDUs in any of the entries of the trace records. Moreover, according to its usage in the field of communications networking, a trace record of a data process or data stream does not typically contain the commands or payloads themselves but instead only contain a trace of useful information regarding the command or data packet. Applicant submits that Field and Saunders, singly or in combination, do not teach or suggest a receive trace record of receive trace record entries nor a transmit trace record of transmit trace record entries pertaining to PDUs in which the trace records do not contain the payload of the PDUs and hence are separate data entities.

As can be gleaned from the specification and drawings as a whole, the result of using trace records not containing any payload of the PDUs is that a performance measurement can be lean and accurate. A measurement process which lumps the packet payload with the time stamp (the result of Field in view of Saunders) would itself potentially introduce jitter into the time stamp. As such the measurement process would not only be measuring jitter of the PDUs arriving and leaving the switch but would also be measuring the inefficiency/delay jitter caused

by the measurement process itself in the unnecessary storing of a payload of the packets in the trace record entries.

Claims 1 and 17 have also been amended to recite first and second timestamps associated with the generation of the receive trace record entry and the transmit trace record entry respectively. These amendments are supported by paragraphs [0031] and [0036] of the present application which describe time stamp functions associated with the receive trace record and the transmit trace record respectively. Applicant submits therefore that no new subject matter has been added to the application. Applicant further submits that neither Field nor Saunders teaches or suggests *two trace records* which store *two timestamps* associated with *two different times* (one of PDU receipt and one of PDU processing), but instead Field in view of Saunders only describes a single time stamp which is *modified* at a point in time by adding a single time delta to it.

Also to be gleaned from the specification and the drawings as a whole, the result of using two separate trace records containing two separate time stamps is that the performance measurement is leaner and less complex. The storing of the second time stamp in the transmit trace record entries avoids the extra processing described by Field in view of Saunders which would be required to add a delta time to an accumulated timestamp of Field and Saunders.

For all of the foregoing reasons Applicant submits that Field in view of Saunders does not teach or suggest the features of the invention nor even suggest the advantages brought about by the features of the invention as claimed in amended claims 1 and 17.

Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. 103(a) rejections of amended claims 1 and 17.

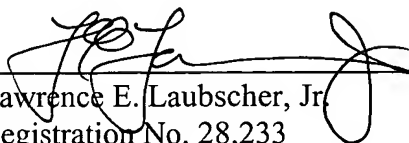
The Examiner has rejected under 35 U.S.C. 103(a), claims 3 and 4 as being unpatentable over Field in view of Saunders further in view of Berning (U.S. Patent No. 6,038,619), claim 5 as being unpatentable over Field in view of Saunders further in view of Wecker (U.S. Patent No. 6,289,464), claim 6 as being unpatentable over Field in view of Saunders further in view of Weir (U.S. Patent No. 5,748,627), claims 7, 8, 11, 12, and 18 as being unpatentable over Field in view of Saunders further in view of Brown (U.S. Patent No. 6,754,211), claim 9 as being unpatentable over Field in view of Saunders and Brown further in view of Berning (U.S. Patent No. 6,038,619), claim 10 as being unpatentable over Field in view of Saunders further in view of Lin (U.S. Patent No. 4,937,817), claim 13 as being unpatentable over Field in view of Saunders further in view of Brown further in view of Abu-Amara (U.S. Patent No. 5,870,396), claim 14 as being unpatentable over Field in view of Saunders in view of Brown and further in view of Lin (U.S. Patent No. 4,937,817), claim 16 as being unpatentable over Field in view of Saunders in view of Brown and further in view of Jacobson (U.S. Patent No. 6,934,256), claims 19, 20, and 21 as being unpatentable over Field in view of Saunders and further in view of Jacobson (U.S. Patent No. 6,934,256), claim 25 as being unpatentable over Field in view of Saunders and further in view of Bare (U.S. Patent No. 6,577,600), and claims 26 and 27 as being unpatentable over Field in view of Saunders and further in view of Li (U.S. Patent No. 6,567,408).

Applicant respectfully submits that Field and Saunders, singly or in combination, do not teach or suggest all of the features of amended independent claims 1 and 17. None of the other references cited against the remaining claims were cited in respect of the features of the amended independent claims and hence Applicant respectfully submits that claims 1 and 17 are allowable in view of all of the references. Applicant submits that since claims 1 and 17 are allowable, so too are the remaining claims which depend therefrom, namely dependent claims 2-16 and 18-27.

Applicant respectfully submits that the claims are in allowable form and kindly requests their timely allowance.

Respectfully submitted,

May 25, 2006


Lawrence E. Laubscher, Jr.
Registration No. 28,233
Laubscher & Laubscher, P.C.
1160 Spa Road, Suite 2B
Annapolis, Maryland 21403
Telephone: (410) 280-6608

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-14501 on May 25, 2006.

Shelly Hubbard

12

Signature

